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FORTINET, INC.

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

FORTINET, INC., a Delaware corporation,

Plaintiff,

v.

TREND MICRO INCORPORATED, et al.,

Defendants.

CASE NO.: CV 10-0048 MMC

**STIPULATED MOTION FOR  
ORDER (1) VACATING AND  
RESETTING CASE  
MANAGEMENT CONFERENCE  
AND ADR DEADLINES, AND (2)  
CONTINUING LOCAL PATENT  
RULE DISCLOSURES; AND  
~~PROPOSED~~ ORDER**

CONTINUING CASE MANAGEMENT  
CONFERENCE TO MAY 28, 2010

IT IS HEREBY STIPULATED by and between plaintiff Fortinet, Inc. ("Fortinet") and  
defendants Trend Micro Incorporated, a California corporation, Trend Micro Incorporated, a

1 Japanese Corporation, and Trend Micro Incorporated, a Taiwanese corporation (collectively,  
2 “Trend Micro”), by and through their counsel of record, as follows:

3 WHEREAS, on January 6, 2010, Fortinet filed a Complaint for Declaratory Judgment  
4 (“Complaint”) against Trend Micro;

5 WHEREAS, on January 22, 2010, Fortinet and Trend Micro filed a Joint Stipulation  
6 extending until March 2, 2010, Trend Micro’s time to respond to the Complaint;

7 WHEREAS, on March 2, 2010, Trend Micro filed a Motion to Dismiss the Complaint  
8 pursuant to Rule 12 of the Federal Rules of Civil Procedure (“Motion to Dismiss”);

9 WHEREAS, the Motion to Dismiss is set for hearing on April 9, 2010;

10 WHEREAS, on January 6, 2010, an Order Setting Initial Case Management Conference  
11 and ADR Deadlines was issued by Magistrate Judge LaPorte in this case;

12 WHEREAS, on February 9, 2010, the case was reassigned to this Court. In its February  
13 9, 2010 Related Case Order, this Court vacated the previously scheduled Initial Case  
14 Management Conference, but stated that any deadlines set by the ADR Local Rules remain in  
15 effect;

16 WHEREAS, on February 22, 2010, this Court issued a Case Management Conference  
17 Order, setting the initial Case Management Conference in this action for April 16, 2010.

18 WHEREAS, pursuant to this Court’s February 9, 2010 Related Case Order stating that  
19 any deadlines set by the ADR Local Rules remain in effect, March 23, 2010 is the last day for  
20 the parties to meet and confer regarding the ADR process selection, to file an ADR Certification,  
21 and to file either a Stipulation to the ADR Process or a Notice of Need for an ADR Phone  
22 Conference;

23 WHEREAS, the holding of the initial Case Management Conference will trigger  
24 deadlines under the Local Patent Rules for the parties to begin making their respective Patent  
25 Disclosures;

1 WHEREAS, the Parties have met and conferred and jointly believe that the deadlines in  
2 this case should be modified to allow a ruling on Trend Micro's Motion to Dismiss prior to  
3 proceeding and, therefore, request the Court:

4 (1) vacate the initial Case Management Conference currently scheduled for April 16,  
5 2010, and reset the initial Case Management Conference after the Court rules on Trend Micro's  
6 Motion to Dismiss;

7 (2) vacate the March 23, 2010 ADR deadlines and reset them, along with the Rule  
8 26-related deadlines, in an Order Resetting the Initial Case Management Conference issued after  
9 the Court rules on Trend Micro's Motion to Dismiss; and

10 (3) order that the parties' obligations to begin making their respective Patent  
11 Disclosures under the Local Patent Rules are continued until after the Court holds the Initial  
12 Case Management Conference, as contemplated above and in the Patent Local Rules.

13 WHEREAS, there is no schedule set in this case beyond the dates set for the ADR  
14 deadlines, the initial Case Management Conference, and the hearing on Trend Micro's Motion to  
15 Dismiss, therefore, this Stipulated Motion will not impact the schedule in this case after those  
16 dates;

17 NOW THEREFORE, the Parties, by and through their undersigned counsel and pursuant  
18 to the above stipulations, hereby jointly move the Court for an Order:

19 (1) vacating the ADR deadlines currently scheduled for March 23, 2010, and the  
20 initial Case Management Conference currently scheduled for April 16, 2010;

21 (2) resetting the ADR deadlines, the initial Case Management Conference, and the  
22 deadlines for the parties to meet and confer regarding initial disclosures and discovery plan, to  
23 file a Rule 26(f) Report, to complete initial disclosures, and to file a Joint Case Management  
24 Statement, in an Order that the Court will issue if the Court denies Trend Micro's Motion to  
25 Dismiss; and  
26  
27

(3) providing that the parties' obligations to begin making their respective Patent Disclosures under the Local Patent Rules shall begin after the Court holds the Initial Case Management Conference, as contemplated above and in the Patent Local Rules.

Dated: March 15, 2010

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Stefani E. Shanberg  
Stefani E. Shanberg

Attorneys for Plaintiff  
FORTINET, INC.

Dated: March 15, 2010

COVINGTON & BURLING LLP


By: /s/ Andrew C. Byrnes  
Andrew C. Byrnes

Attorneys for Defendants  
TREND MICRO INCORPORATED;  
TREND MICRO INCORPORATED;  
and TREND MICRO INCORPORATED

PURSUANT TO THE PARTIES' STIPULATED MOTION, IT IS SO ORDERED, with the exception that the Case Management Conference is CONTINUED to May 28, 2010.

Dated: ~~March 15, 2010~~

March 18, 2010

  
The Honorable Maxine M. Chesney  
UNITED STATES DISTRICT COURT JUDGE